

*Order in Council modifying the Order in Council of 12th September, 1921, in respect of construction of Tongariro Timber Company Limited's Railway from Kakahi to Lake Taupo.*

CHARLES FERGUSSON, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 25th day of August, 1925.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS the Tongariro Timber Company, Limited (hereinafter called "the said company"), has, under and in pursuance of the provisions of section thirty-seven of the Maori Land Laws Amendment Act, 1908, certain rights under agreements with the Aotea District Maori Land Board (hereinafter called "the said Board") with respect to the lands described in such agreements and the timber thereon, and is under obligations to the said Board (*inter alia*) to construct a railway (hereinafter called "the said railway") within a certain period :

And whereas by Order in Council made the twelfth day of September, one thousand nine hundred and twenty-one, the obligations and rights of the said company under its said agreements were extended and modified in certain respects :

And whereas the said Order in Council was confirmed as thereby required by Act of the General Assembly of the Dominion of New Zealand by section nineteen of the Native Land Amendment and Native Land Claims Adjustment Act, 1921-22 :

And whereas by the provisions of section twenty-eight, subsection one, of the Native Land Amendment and Native Land Claims Adjustment Act, 1923, section nineteen of the Native Land Amendment and Native Land Claims Adjustment Act, 1921-22, was amended as follows : By adding to subsection one thereof the following words—"and to have full power and authority to amend or vary the said Order in Council and to vary or revoke all or any of such terms and conditions, and to impose other terms and conditions in lieu thereof :

And whereas the said company has made application for certain modifications of the provisions of the said Order in Council :

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority conferred on him by section nineteen of the Native Land Amendment and Native Land Claims Adjustment Act, 1915, and of every other power and authority enabling him in that behalf, and acting by and with the consent of the Executive Council of the said Dominion, doth hereby order as follows :—

1. Upon the said company or its assigns procuring Cammell, Laird, and Company (Limited), or some other firm, company, or corporation, to be approved of by the Honourable the Minister of Native Affairs (hereinafter called "the contractors") to enter into the contract as provided by clause 2 of this Order in Council, the provisions of the said Order in Council of the twelfth day of September, one thousand nine hundred and twenty-one, shall be modified and amended in manner following, that is to say :—

- (a.) The period within which the said company is bound to complete the construction of the said railway fixed by the said Order in Council shall be extended in manner hereinafter appearing, and the provisions contained in clauses 1 and 2 thereof shall be rescinded in order to enable the following provisions to become applicable in lieu thereof.
- (b.) The period within which the said company is bound to complete the construction of the said railway is hereby extended for a total period of seven (7) years from the first day of January, one thousand nine hundred and twenty-five, for complete construction of the said railway from 0 miles at Kakahi to the actual shore of Lake Taupo, provided that the first eighteen miles thereof from Kakahi Railway-station shall be completed within a period of three (3) years from the first day of September, one thousand nine hundred and twenty-five.
- (c.) The said railway shall be constructed in accordance with the new specifications agreed upon by the said company and the Department of Public Works, a copy of which specifications, signed by F. W. Furkert, the Engineer-in-Chief of the said Department, has been lodged in the office of such Department at Wellington.
- (d.) The company, the new company, and any purchaser from the company or from the new company or from a mortgagee, or from a trustee or trustees for debenture-holders, and any Receiver in possession shall carry passengers and goods (other than timber in

bulk or sawn or flax) along every part of the railway-line at all times after such part is completed and along the whole line at all times after the railway is completed as provided by clause (c).

- (e.) The charge to be made for passengers and goods shall not exceed the rates for the time being in force on any Government branch railway. In respect of the carriage the owners or possessors for the time being of the railway shall be under all the liabilities and duties of common carriers.
  - (f.) The owners or possessors for the time being of the railway shall along the whole length of every part of the line at all times after such part is completed and along the whole of the line at all times after the railway is completed as provided by clause (c) provide at least one train in every week from each terminus to the other terminus with sufficient carriages and trucks for due compliance with the provisions of the preceding clauses, and shall also cause such trains to stop at such reasonable points on the railway-line as the Minister of Railways shall from time to time require.
  - (g.) No part of the permanent way of the railway or of the stations and buildings or the rails or bridges of the line of the said railway shall at any time after the construction thereof be removable by any owner or mortgagee thereof, which term "mortgagee" shall include debenture-holders or trustees for them holding a mortgage or charge over or on the said railway.
  - (h.) Upon the expiry of the period of twenty-five years from the date of the contract referred to in clause 2 hereof the new company shall commence and thereafter shall diligently proceed with the construction of tunnels necessary and do and perform all other things requisite to enable the said line to be used by the class of Government railway-engine and rolling-stock which are now used on the New Zealand Government branch lines : Provided that the new company shall not in any event be required to construct the said line with curves of a greater radius than five chains or gradients flatter than one in thirty-seven and a half, with suitable modification by flattening on curves so that the resistance due to traction on the curves shall not exceed that due to a grade of one in thirty-seven and a half on a straight line.
  - (i.) Nothing in the last preceding subclause shall prevent any owner or mortgagee from selling or assigning the said railway as a whole nor from making any alterations, extensions, or improvements to the said railway which may be necessary to cope with or expedite traffic ; nor shall the obligation contained in subclause (h) to bring the said railway up to Government standard at the expiry of twenty-five years bind the debenture-holders hereinafter referred to or any trustee for them to find the money therefor ; nor shall it affect or prejudice the mortgage, charge, security, rights, powers, authorities, or remedies of the debenture-holders, or any trustee for them, except that no sale under the power of sale in any mortgage or debenture shall be made of the railway except subject to the condition that the purchaser becomes bound by the stipulation to bring the said railway up to Government standard at the expiry of the period mentioned in the said subclause.
  - (j.) If required by the Native Minister, the new company hereinafter referred to shall enter into a covenant with the Crown to observe the provisions of sub-clauses (g) and (h) hereof.
  - (k.) The new company shall give to the Crown a valid charge over the said railway (subject only to the mortgage, charge, or security of the debenture-holders hereinafter referred to, or of any trustee for them, and to the rights, powers, authorities, and remedies created or given by any such mortgage, charge, or security) as security to the Crown for the performance of the obligations of the new company as provided by this clause.
2. The said company shall procure the contractors to enter into a contract with the new company for the construction and completion of the said railway in accordance with the specifications mentioned in subclause (c) of clause 1 hereof and within the period mentioned in subclause (b) of such clause ; and such contract may provide for additional works or plant and such expenditure-moneys and other matters whatsoever as may be agreed upon by the parties as desirable in connection with the respective undertakings of the parties thereto and of the said company. The new company shall mean a company to be incorporated in New Zealand or